DSG HOLDINGS SDN BHD v. LOOE CHEE KEONG

HIGH COURT MALAYA, IPOH
ABDUL WAHAB MOHAMED J
[CIVIL SUIT NO: AA-24NCVC-189-04-2025]
18 NOVEMBER 2025

Abstract – *(i) The right to lodge a caveat is not an unfettered one. It is a statutory privilege granted only to persons claiming a registrable interest in the land. A person who has no such interest, or whose claim is defective in law, cannot be permitted to fetter the title of the registered proprietor. The mere fact of being a 'contributor' or shareholder of a company does not confer an individual proprietary interest in a company's land; (ii) The purpose of a caveat is to preserve proprietary or beneficial rights in land. It cannot be used as an instrument of obstruction to frustrate a court-sanctioned transaction. An attempt to use a caveat to protect a commercial grievance or corporate dispute falls outside the scope of s. 323 of the National Land Code. A caveat entered mala fide or for an improper purpose may be ordered to be removed*

LAND LAW: *Caveat – Removal – Application for – Whether caveat lodged by private individual without legal or equitable interest – Whether contributor or shareholder of company conferred individual proprietary interest in land – Whether caveat entered mala fide – Whether caveator had no locus standi to lodge or maintain private caveat – Act of lodging caveat without liquidator's authority – Whether contravened ss. 471(i)(b) and 486(1) of Companies Act 2016 – Whether applicant had equitable and registrable right within meaning of ss. 323 and 327 of National Land Code – Whether caveat ought to be removed*

CONTRACT: *Agreement – Sale and purchase agreement – Whether tainted with illegality – Whether duly executed by parties – Whether part-performance brought contract within saving of s. 31 of the Specific Relief Act 1950 – Whether agreement lawful, valid and enforceable*

CIVIL PROCEDURE: *Judgments – Consent judgment – Whether terms of judgment endorsed by court – Whether contrary to judicial policy to permit private individual to frustrate judgment by entering caveat – Whether consent judgment valid and binding – Courts of Judicature Act 1964, s. 24*

This was an application brought by the applicant under ss. 327(1) and 417 of the National Land Code ('NLC') seeking an order for the removal of a private caveat lodged by the respondent upon a piece of land ('land'). CK Rubber Industries Sdn Bhd ('company') was at all material times the registered proprietor of the land. The company entered into a sale and purchase agreement ('SPA') with the applicant for the sale of the land. Prior

to the execution of the SPA, the company executed Form 14A for the transfer of the land to the applicant. A private caveat was subsequently lodged by the applicant to protect its interest as the purchaser under the SPA. Subsequently, the company was wound up, and the Malaysian Department of Insolvency ('MDI') was appointed as the liquidator. A consent judgment was entered into between the company and the applicant which recorded, *inter alia*, that the vendor would proceed with all necessary steps to obtain transfer approval, redeem the property from Public Bank Bhd, and update all arrears of land and assessment taxes. The applicant tendered a bank draft for the amount of RM3,649,411.65 to the MDI. MDI acknowledged receipt and expressed readiness to proceed with the perfection of transfer. However, it was later discovered that the company had failed to pay outstanding land and assessment taxes. The applicant settled the sums. Despite these efforts, the transfer could not proceed due to the presence of a caveat lodged by the respondent which was entered purportedly to protect the interests of the company and its creditors. The respondent filed a notice of motion seeking declarations that the SPA and the consent judgment were null and void, or alternatively, had been rescinded. The respondent alleged that the SPA was in reality an illegal money-lending transaction designed to circumvent the Moneylenders Act 1951 ('MLA'). The respondent also asserted that the caveat was properly entered to preserve the rights of the company and its creditors pending determination of its declaratory motion. The applicant argued that the SPA was a valid and binding agreement supported by valuable consideration, and that all steps required under the consent judgment have been or were capable of being performed. The issues that arose were (i) whether the respondent had *locus standi* to lodge and maintain the caveat on behalf of the wound-up company; (ii) whether the SPA and the consent judgment were valid and enforceable, or void for illegality or lack of consideration; (iii) whether the applicant had demonstrated a registrable interest in the land sufficient to warrant the removal of the caveat under ss. 327(1) and 417 of the NLC; and (iv) consequentially, whether the caveat ought to be removed and what orders should follow as to costs.

Held (allowing application in part):

(1a) Section 327(1) of the NLC, under which this application was made, empowers the court to order the removal of a caveat where 'the caveator has no valid claim or interest capable of supporting the caveat'. Therefore, once it was shown that the caveat was lodged by a person without a legal or equitable interest, or without proper authority, this court was bound to direct its removal. (para 25)

(1b) The right to lodge a caveat is not an unfettered one. It is a statutory privilege granted only to persons claiming a registrable interest in the land. A person who has no such interest, or whose claim is defective in law, cannot be permitted to fetter the title of the registered

proprietor. Applying this principle, the respondent's caveat could not be sustained. The respondent was neither a registered proprietor nor a purchaser; nor did he hold any equitable or contractual interest arising from the SPA. The mere fact of being a 'contributor' or shareholder of the company did not confer an individual proprietary interest in the company's land. This is a cardinal rule of company law that the company is a distinct legal entity from its shareholders. (paras 30 & 31)

(1c) The liquidator had expressly indicated support for the applicant's application and readiness to execute the Form 14A. There was therefore no question of the company's interest being prejudiced. On the contrary, the caveat operated to the detriment of the winding-up estate by obstructing realisation of assets and compliance with the consent judgment. A caveat entered *mala fide* or for an improper purpose may be ordered to be removed even if the caveator once had a colourable interest. Here, the respondent's conduct in entering the caveat to frustrate a consent judgment lawfully recorded by the court evinced *mala fides*. (paras 36 & 39)

(1d) The respondent had no *locus standi* to lodge or maintain the private caveat over the land. Upon the company's winding-up, all powers concerning its property vested in the MDI as liquidator. The respondent, being merely a contributor, possessed no proprietary or equitable interest entitling him to caveat the land. The act of lodging the caveat without the liquidator's authority contravened ss. 471(1)(b) and 486(1) of the Companies Act 2016 ('CA') and constituted an interference with property *in custodia legis*. Such an act was void and incapable of conferring any rights. Thus, the caveat was lodged without lawful authority and was liable to be removed under s. 327(1) of the NLC. (paras 41-43)

(2a) There was no contemporaneous documentation evidencing any loan arrangement, repayment schedule, or payment of interest. The only documents before the court were (i) the executed SPA; (ii) the Form 14A duly signed by the vendor; (iii) banking records showing payment of deposit; and (iv) the redemption statement and subsequent bank draft tendered to Public Bank Bhd. None of these documents indicated a lending transaction. The SPA was a genuine agreement for sale and purchase of land. The respondent's contention that the SPA was tainted with illegality or constituted a moneylending arrangement within the meaning of the MLA was rejected. Illegality could not be inferred from conjecture; it must be strictly proved. This court could not accept bare allegations unaccompanied by primary evidence. (paras 50-54)

(2b) The SPA was duly executed by both parties, stamped and partially performed through the issuance of the redemption statement and tender of the redemption sum. The applicant's payment of land and assessment of taxes on behalf of the vendor further evidenced performance. These acts of part-performance would in any event bring the contract within the saving of s. 31 of the Specific Relief Act 1950 ('SRA'). On the totality of the evidence, the SPA was a lawful, valid and enforceable agreement supported by valuable consideration. (paras 57 & 60)

(3a) The consent judgment was entered between the applicant and the company, and the respondent was a party to the consent judgment. The record showed that the terms of the consent judgment were endorsed by the court and duly recorded. Once parties entered into a consent order approved by the court, that judgment stood as a final adjudication between the parties to it. Furthermore, the consent judgment expressly authorised the Registrar of the High Court to execute all necessary documents to complete the sale in the event of default by the vendor (cl. 8). This clause reflected the court's supervisory approval and created an enforceable statutory duty under s. 24 of the Courts of Judicature Act 1964 for the Registrar to perfect the transfer. It would be contrary to judicial policy to permit a private individual to frustrate such a judgment by entering a caveat. (paras 64-67)

(3b) The consent judgment was recorded after the company's winding-up and therefore under the supervision of the liquidator of the court. Section 486(1)(d) of the CA empowers the liquidator 'to sell the immovable and movable property and effects of the company by public auction or private contract'. The SPA, having been affirmed through the consent judgment, fell squarely within that statutory power. The liquidator had acted in accordance with his statutory duty to realise the company's assets and settle secured debts. The respondent's caveat, far from protecting its creditors, in fact impeded the liquidator's ability to distribute proceeds to them. Therefore, the consent judgment was valid and binding upon the company and all persons claiming under it, including its contributors and shareholders. The respondent's attempt to circumvent that judgment by lodging a caveat was legally untenable. (paras 68-70)

(4) The applicant had executed the SPA, paid the deposit and redemption sum and subsequently paid the outstanding land and assessment taxes on behalf of the vendor. These acts constituted clear and unequivocal part-performance under s. 31 of the SRA. The subsequent consent judgment reinforced and formalised that equitable interest. The said judgment expressly empowered the Registrar of the High Court to

execute the transfer documents to effect completion. In substance therefore, the applicant's equitable ownership had crystallised into a registrable right enforceable by an order of the court. Hence, the applicant's right was not merely equitable but registrable within the meaning of ss. 323 and 327 of the NLC. The continued existence of the respondent's caveat operated to defeat that statutory entitlement, thereby rendering the caveat wrongful and improper. (paras 75-77)

(5a) The purpose of a caveat is to preserve proprietary or beneficial rights in land. It cannot be used as an instrument of obstruction to frustrate a court-sanctioned transaction. The respondent's attempt to use a caveat to protect a commercial grievance or corporate dispute fell outside the scope of s. 323 of the NLC. The respondent's caveat was therefore improperly entered. It neither protected a legal or equitable interest nor preserved any proprietary interest recognised by law. It obstructed the execution of a lawful consent judgment and frustrated the liquidator's statutory duty under s. 486 of the CA. The applicant, being the equitable purchaser and beneficiary of a valid consent judgment, was clearly an aggrieved person within the meaning of s. 327(1) of the NLC. (paras 81-83)

(5b) The caveat served no legitimate purpose. The respondent had no caveatable interest, the liquidator supported completion, and the applicant had already paid the full purchase price and settled outstanding liabilities. To allow the caveat to subsist would subvert both the CA and the NLC, contrary to s. 417 which empowers the court to prevent abuse of process. The continued existence of the respondent's caveat constituted an abuse of the caveat mechanism and an interference with the execution of a valid court order. The applicant had discharged its obligations under the SPA and consent judgment, whereas the respondent had sought to obstruct completion without advancing any credible legal basis. The balance of convenience and justice thus lay decisively in favour of the applicant. (paras 84-88)

(6) The respondent failed to establish any registrable interest or caveatable claim over the land capable of supporting the continued entry of the private caveat. Accordingly, the caveat ought to be removed. On the question of damages, however, this court was not satisfied that the applicant had sufficiently particularised or proved any specific loss flowing from the lodging of the private caveat. The applicant's prayer for damages was dismissed. (paras 90-94)

Case(s) referred to:

Badiaddin Mohd Mahidin & Anor v. Arab Malaysian Finance Bhd [1998] 2 CLJ 75 FC ***(refd)***

Borneo Housing Mortgage Finance Bhd v. Time Engineering Bhd [1996] 2 CLJ 561 FC ***(refd)***

Bursa Malaysia Securities Bhd v. Mohd Afrizan Husain [2022] 4 CLJ 657 FC ***(refd)***

Hap Seng Credit Sdn Bhd v. Mohamed A Ralim & Ors [2015] CLJU 1227; [2015] 1 LNS 1227 HC ***(refd)***
Luggage Distributors (M) Sdn Bhd v. Tan Hor Teng & Anor [1995] 2 CLJ 713 CA ***(refd)***
Salomon v. A Salomon & Co Ltd [1897] AC 22 ***(refd)***
Score Options Sdn Bhd v. Mexaland Development Sdn Bhd [2012] 7 CLJ 802 FC ***(refd)***
Tan Geok Lan v. La Kuan [2004] 2 CLJ 301 FC ***(refd)***
Tan Sri Dato' Hj Lamin Hj Mohd Yunus v. Bursa Malaysia Securities Bhd & Other Appeals [2012] 3 CLJ 837 CA ***(refd)***
Tio Chee Hing v. Tractors Malaysia Bhd [1972] CLJU 157; [1972] 1 LNS 157 FC ***(refd)***
Wahbunga Realty Sdn Bhd & Ors v. Dato' Sri Andrew Kam Tai Yeow & Other Appeals [2023] 2 CLJ 731 CA ***(refd)***
Wu Shu Chen & Anor v. Raja Zainal Abidin Raja Hussin [1997] 3 CLJ 854 CA ***(refd)***

Legislation referred to:
Companies Act 1965 (repealed), s. 227
Companies Act 2016, ss. 8, 471(1)(b), 486(1), (2)
Contracts Act 1950, s. 26
Courts of Judicature Act 1964, s. 24
Moneylenders Act 1951, ss. 2, 10
National Land Code, ss. 323(1), 327(1), 417
Specific Relief Act 1950, s. 31

For the applicant - Ng Keem Foong; M/s Ng Yook Woon, Andrew TC Saw & Co
For the respondent - C Kaladevi Chandrasekharan; M/s K Devi & Assocs

Reported by Suhainah Wahiduddin

JUDGMENT

Abdul Wahab Mohamed J:

Introduction

[1] This is an application brought by the applicant under ss. 327(1) and 417 of the National Land Code ("NLC") seeking an order for the removal of a private caveat lodged by the respondent upon the land held under Pajakan Negeri No. 314346, Lot 62045, Mukim Hulu Kinta, Daerah Kinta, Negeri Perak ("the land").

[2] The application arises in the context of a commercial transaction that became entangled with a subsequent insolvency proceedings. The applicant, as the purchaser under a sale and purchase agreement dated 2 May 2019 ("the SPA"), asserts that it has paid substantial sums towards the purchase price and completed all obligations necessary to perfect the transfer of the land. However, the existence of a caveat entered by the respondent has rendered the completion impossible.

[3] The respondent, on the other hand, maintains that the SPA was in truth a sham and an illegal money-lending arrangement designed to disguise an unlawful transaction. On that basis, the respondent contents that both the SPA and the consent judgment subsequently recorded in 2022 are void and

unenforceable. The respondent further claims to have lodged the caveat to protect the interests of the company's creditors and contributors following its winding-up.

Background Facts

[4] The relevant factual chronology is largely undisputed, save for the characterisation of the underlying transaction. For completeness, the salient events are summarised as follows.

[5] CK Rubber Industries Sdn Bhd ("the company") was at all material times the registered proprietor of the land. On 2 May 2019, the company entered into a sale and purchase agreement with the applicant for the sale of the land at a consideration of RM4,500,000. Clause 1.1 of the SPA required the applicant to pay a deposit of RM1,200,000 upon execution, which was duly remitted on 15 May 2019.

[6] Prior to the execution of the SPA, the company executed Form 14A for the transfer of the land to the applicant dated 2 May 2019. A private caveat was subsequently lodged by the applicant on 14 May 2019 to protect its interest as the purchaser under the SPA.

[7] On 17 September 2021, the company was wound up pursuant to an order obtained by Redox Chemicals Sdn Bhd, and the Malaysian Department of Insolvency ("MDI") was appointed as the liquidator.

[8] Subsequently, on 9 June 2022, a consent judgment was entered into between the company (acting through its liquidator) and the applicant. The consent judgment recorded, *inter alia*, that the vendor would proceed with all necessary steps to obtain transfer approval, redeem the property from Public Bank Berhad, and update all arrears of land and assessment taxes.

[9] The redemption statement from Public Bank Berhad was issued on 20 November 2024, fixing the redemption sum at RM3,648,411.65 payable by 30 December 2024. The applicant, through its solicitors, tendered a bank draft for the said amount to the Insolvency Department on 26 December 2024. The MDI acknowledged receipt and expressed readiness to proceed with the perfection of transfer.

[10] However, on 31 December 2024, it was discovered that the company had failed to pay outstanding land and assessment taxes amounting to RM73,806.90 and RM140,110.80 respectively. The applicant settled these sums on 2 January 2025.

[11] Despite these efforts, the transfer could not proceed due to the presence of a caveat lodged by the respondent. The caveat, entered on 13 May 2025, purported to protect the interests of the company and its creditors. The respondent subsequently filed a notice of motion in

A Post-Winding Company Case No. AA-28PW-75-05-2025 seeking declarations that the SPA and the consent judgment were null and void, or alternatively, had been rescinded.

[12] The Insolvency Department did not oppose the present application, subject only to the applicant bearing costs. The respondent, however, B strenuously resisted, alleging that the SPA was in reality an illegal money-lending transaction designed to circumvent the Moneylenders Act 1951.

[13] The applicant argues that the SPA was a valid and binding agreement supported by valuable consideration, and that all steps required under the C consent judgment have been or are capable of being performed. It submits that cl. 8 of the consent judgment expressly authorises the Registrar of the High Court to execute all necessary documents to complete the transfer should the vendor default.

D **[14]** It further contends that the respondent lacks *locus standi* to lodge or maintain a caveat on behalf of the wound-up company. Reliance is placed on *Luggage Distributors (M) Sdn Bhd v. Tan Hor Teng & Anor* [1995] 2 CLJ 713; [1995] 1 MLJ 719, which held that once a winding-up order is made, the powers of the directors and shareholders are suspended and only the E liquidator may act on behalf of the company. Thus, any caveat lodged by a contributor or shareholder post-winding up is *ultra vires* and void.

[15] The applicant also submits that there is no evidence of illegality or money-lending within the SPA, and that such allegations are speculative and unsupported by documentary proof. The burden, it argues, rests on the F respondent to prove illegality, as the law presumes the validity of contracts.

[16] The respondent avers that the SPA was merely a facade for a money-lending arrangement between the applicant (or its principal, Tan Sri Dato Seri Darshan Singh) and the company. It claims that a sum of RM1,995,000 was returned to the applicant shortly after payment, indicating that the G transaction was not a genuine sale.

[17] The respondent points to the disparity between the land's alleged market value of RM5,200,000 in 2007 and the sale price of RM4,500,000 in 2019 as evidence that no genuine intention to sell existed. On that footing, the respondent asserts that the SPA and consent judgment are null, void, and H unenforceable. Accordingly, it maintains that the caveat was properly entered to preserve the rights of the company and its creditors pending determination of its declaratory motion.

The Issue For Determination

I **[18]** Having reviewed the pleadings, affidavits, and submissions, the court is of the view that the following issues arise for determination in this application:

(i) whether the respondent has *locus standi* to lodge and maintain the caveat on behalf of the wound-up company;

(ii) whether the sale and purchase agreement dated 2 May 2019 and the consent judgment dated 9 June 2022 are valid and enforceable, or void for illegality or lack of consideration;

(iii) whether the applicant has demonstrated a registrable interest in the land sufficient to warrant the removal of the caveat under ss. 327(1) and 417 of the National Land Code; and

(iv) consequentially, whether the caveat ought to be removed and what orders should follow as to costs.

[19] For clarity and efficiency, the court will address these issues in the order most conducive to resolving the dispute: beginning with *locus standi*, then the validity of the SPA and consent judgment, and finally the existence of a registrable interest.

Issue Of Locus Standi

[20] It is trite that upon the making of a winding-up order, the company ceases to function through its directors or shareholders. Instead, all powers of management vest in the liquidator, who alone has the authority to act on behalf of the company (*Tan Sri Dato' Hj Lamin Hj Mohd Yunus v. Bursa Malaysia Securities Bhd & Other Appeals* [2012] 3 CLJ 837; [2012] 6 MLJ 182). The above principle was further highlighted in a recent Federal Court's case of *Bursa Malaysia Securities Bhd v. Mohd Afrizan Husain* [2022] 4 CLJ 657 where it was held as follows:

> [80] ... in a winding up situation, the directors cease to have control of the assets and operations of the company, which are taken over by a liquidator. The liquidator is in possession of the assets of the listed corporation and has primary control over the operations and assets of the company.

[21] Section 486(1) of the Companies Act 2016 (formerly s. 227 of the 1965 Act) codifies this rule by providing that upon a winding-up order, "the liquidator shall take into his custody or under his control all the property and choses in action to which the company is or appears to be entitled". Consequently, any step purportedly taken by a shareholder, contributor, or creditor in the company's name without leave of court is void.

[22] Further, s. 471(1)(b) of the Companies Act 2016 prohibits any action or proceeding from being commenced or continued against the company except by leave of court. *A fortiori*, the lodging of a caveat or encumbrance over the company's property constitutes an "act in relation to the company's property" which only the liquidator may authorise.

[23] The jurisprudence is consistent that the act of lodging a caveat is not a mere personal act; it is a proprietary assertion concerning ownership or interest in land. This assertion is anchored in s. 323 of the NLC. The Federal Court, in landmark decisions such as *Score Options Sdn Bhd v. Mexaland Development Sdn Bhd* [2012] 7 CLJ 802; [2012] 6 MLJ 475, firmly established the legal standard that only an existing proprietary interest is caveatable, thereby formally excluding mere future interests, expectations, or claims rooted purely in contract (*jure in personam*). Consequently, the act of lodgement elevates a private equitable or unregistered legal claim into a public, statutory restraint, ensuring that any subsequent dealing is subject to the doctrine of notice.

[24] It is pertinent, at this juncture, to appreciate that the National Land Code 2020 (formerly National Land Code 1965) regulates the entry, effect, and removal of private caveats. Section 323(1) provides that any person "claiming title to or any registrable interest in land" may lodge a caveat to protect such interest. The key phrase "claiming title to or any registrable interest" restricts the right to caveat to persons with either a proprietary or equitable claim recognised by law.

[25] Section 327(1) of the NLC, under which this application is made, empowers the court to order the removal of a caveat where "the caveator has no valid claim or interest capable of supporting the caveat". Therefore, once it is shown that the caveat was lodged by a person without a legal or equitable interest, or without proper authority, the court is bound to direct its removal.

[26] It is undisputed that the respondent is neither the registered proprietor of the land nor a purchaser under any subsisting agreement. The caveat was not entered in a personal capacity but purportedly "on behalf of the company and its creditors" after the company had been wound up by an order of the High Court. In consequence, the pivotal question is whether a contributor or shareholder of a company under liquidation can assert proprietary rights in the company's land by lodging a caveat.

[27] The answer must be found in the statutory scheme governing corporate insolvency. Under s. 486(1) of the Companies Act 2016, upon the making of a winding-up order, the liquidator "shall take into his custody or under his control all the property and choses in action to which the company is or appears to be entitled". Section 486(2) further provides that "the powers of the directors shall cease, except insofar as the liquidator or the court may sanction their continuance".

[28] The implication is twofold. First, all proprietary and possessory powers of the company vest exclusively in the liquidator. Secondly, any attempt by the directors or shareholders to deal with, encumber, or otherwise assert control over the company's property is null and void unless specifically authorised by the liquidator or the court. This is reinforced by

s. 471(1)(b), which prohibits the commencement or continuation of "any action or proceeding" against or in the name of the company without the leave of court.

[29] The respondent in this case does not assert that the liquidator had authorised or consented to the lodging of the caveat. On the contrary, the uncontroverted evidence shows that the Malaysian Department of Insolvency (MDI), as the liquidator, expressly indicated its readiness to complete the transfer in accordance with the consent judgment. The lodging of the caveat, therefore, was not only unauthorised but directly obstructive to the liquidator's statutory duty to realise and distribute the company's assets.

[30] The right to lodge a caveat is not an unfettered one. It is a statutory privilege granted only to persons claiming a registrable interest in the land. A person who has no such interest, or whose claim is defective in law, cannot be permitted to fetter the title of the registered proprietor.

[31] Applying this principle, the respondent's caveat cannot be sustained. The respondent is neither a registered proprietor nor a purchaser; nor does he hold any equitable or contractual interest arising from the SPA. The mere fact of being a "contributor" or shareholder of the company does not confer an individual proprietary interest in the company's land. This is a cardinal rule of company law the company is a distinct legal entity from its shareholders (*Salomon v. A Salomon & Co Ltd* [1897] AC 22).

[32] In *Wahbunga Realty Sdn Bhd & Ors v. Dato' Sri Andrew Kam Tai Yeow & Other Appeals* [2023] 2 CLJ 731, the Court of Appeal reaffirmed that shareholders have no proprietary rights in company assets

> [32] Added to that, we also find that the fourth to the 11th defendants' shareholding in the second defendant belonged to them and not the first defendant. A company is a separate entity distinct from its shareholders and therefore the property owned by the company belongs to it and not to its shareholders. The shareholders have no legal nor equitable rights in the assets of the company.
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> [33] In *Dato' Dr Hj Mohamed Haniffa Hj Abdullah & Ors v. Koperasi Doktor Malaysia Bhd And Ors & Another Appeal* [2008] 3 CLJ 323; [2008] 3 MLJ 530, this court held as follows at para. 9 of the judgment:
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> > ... This cardinal principle of company law was established in *Salomon v. Salomon & Co Ltd* [1897] AC 22 and exemplified in *Macaura v. Northern Assurance Co Ltd & Ors* [1925] AC 619, where Lord Buckmaster said:
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> > > Now, no shareholder has any right to any item of property owned by the company, for he has no legal or equitable interest therein. He is entitled to a share in the profits while the company continues to carry on business and a share in the distribution of the surplus assets when the company is wound up.

[34] In *North Plaza Sdn Bhd v. United Securities Sdn Bhd* [2010] 1 CLJ 470; [2010] 1 MLJ 631, at para. 22, this court held as follows:

> The property owned by a company belongs to it and not to its shareholders. The shareholders have no right to any property owned by the company but are only entitled to share dividends while the company continues and a share in the distributions of the surplus in the event the company is wound up (*Law Kam Loy & Anor v. Boltex Sdn Bhd & Ors* [2005] 3 CLJ 355 following the established principle in *Macaura v. Northern Assurance Co Ltd* [1925] AC 619).

[35] The above principles have been reaffirmed by this court in *Mega Forest Plantation Management Sdn Bhd v. Pengarah Perhutanan Negeri Selangor & Ors* [2021] 7 CLJ 561.

> [83] The principle that shareholders have no legal interest in the assets of the company in which shares are held, is trite. In this regard it was established by the seminal case of *Macaura v. Northern Assurance Co Ltd* [1925] AC 619; [1925] All ER 51 HL that shareholders have no interest in a company's property. Lord Wrenbury's speech at p. 633 is instructive. He said that "the corporator even if he holds all the shares is not the corporation ... neither he nor any creditor of the company has any property legal or equitable in the assets of the corporation".
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> [84] For completeness, we think that it is also relevant to refer to *Pioneer Haven Sdn Bhd v. Ho Hup Construction Company Bhd & Anor And Other Appeals* [2012] 5 CLJ 169; [2012] 3 MLJ 616 CA, where the Court of Appeal (per Zainun AH JCA as she then was) enunciated:
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> > [146] It is of course trite that the cornerstone of company law is that a company is a separate legal entity from its shareholders. As such, a shareholder cannot claim any right to any asset of the company for it has no legal or equitable interest therein. (See *Law Kam Loy & Anor v. Boltex Sdn Bhd & Ors* [2005] 3 CLJ 355).
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> [85] As such, as a matter of law, the appellant as the majority shareholder of MNSB has no legal right to the assets of MNSB. Thus, whether the assets are in the form of the Sentang trees or other vegetation which had been planted on the sub-leased land, or whether the asset is in the form of a chose in action, the right to sue for the asset lies with MNSB. This appear to be the real intent and grievance of the appellant.

[36] In view of the fundamental principle that a company is a separate entity distinct from its shareholders, and that the property owned by a company belongs to it and not its shareholders, we find that the learned judge has erred in law when she failed to give effect to the said principle.

[33] Thus, even if the respondent was motivated by a genuine desire to protect the creditors' interest, the law provides an established mechanism for doing so through representations to the liquidator or applications under s. 486(2) of the Companies Act for directions, not by unilateral entry of a caveat. To allow such actions would undermine the statutory scheme of liquidation and open the floodgates to conflicting claims over company assets.

[34] The respondent argued that it had also filed an application for leave in Post-Winding Company Case No. AA-28PW-75-05-2025 seeking declarations that the SPA and consent judgment were void, and therefore the caveat was justified to preserve the *status quo* pending that action. This court is unable to accept that proposition. Section 471(1)(b) of the Companies Act 2016 makes clear that no action may be commenced against or in the name of the company without leave. The mere filing of a leave application does not retrospectively validate an act (such as lodging a caveat) that was otherwise unlawful when done.

[35] The respondent also invoked equitable considerations, asserting that as a contributor who had invested in the company, he ought to be permitted to protect its assets from an allegedly void sale. While the court is sympathetic to the concern, equity follows the law. The *lex specialis* governing liquidation must prevail. Equity cannot override express statutory provisions that vest control of the company's property in the liquidator.

[36] In the present case, the liquidator has expressly indicated support for the applicant's application and readiness to execute the Form 14A. There is therefore no question of the company's interest being prejudiced. On the contrary, the caveat operates to the detriment of the winding-up estate by obstructing realisation of assets and compliance with the consent judgment.

[37] Moreover, the caveat's stated purpose "to protect the interest of the company and its creditors" is conceptually incoherent. The caveator cannot simultaneously act on behalf of the company (which is a separate legal person) and its creditors (whose rights are collectively represented by the liquidator). Such conflation of capacities underscores the absence of legal standing.

[38] The court also notes that the respondent's action in entering the caveat was taken more than three years after the winding-up order, at a time when all proprietary control had long vested in the liquidator. There is no evidence that the liquidator was notified or consented to the caveat's entry. This delay, coupled with the lack of authority, renders the act both procedurally improper and substantively void.

[39] A caveat entered *mala fide* or for an improper purpose may be ordered to be removed even if the caveator once had a colourable interest. Here, the respondent's conduct in entering the caveat to frustrate a consent judgment lawfully recorded by the court evinces *mala fides*.

[40] For completeness, the court addresses one final contention by the respondent that the caveat was necessary to prevent dissipation of the land pending determination of its declaratory application. The court cannot accept that justification. The law does not permit self-help remedies in the face of clear statutory provisions. If the respondent believed the transfer was improper, the correct procedure was to apply for an injunction or to move the court for directions under s. 486(2), not to unilaterally encumber the company's land.

[41] Having considered the facts and authorities, this court finds that the respondent has no *locus standi* to lodge or maintain the private caveat dated 13 May 2025 over the land. Upon the company's winding-up, all powers concerning its property are vested in the Malaysian Department of Insolvency as the liquidator. The respondent, being merely a contributor, possessed no proprietary or equitable interest entitling him to caveat the land.

[42] The act of lodging the caveat without the liquidator's authority contravenes ss. 471(1)(b) and 486(1) of the Companies Act 2016 and constitutes an interference with property *in custodia legis*. Consistent with *Luggage Distributors (M) Sdn Bhd v. Tan Hor Teng & Anor* [1995] 2 CLJ 713; [1995] 1 MLJ 719, such an act is void and incapable of conferring any rights.

[43] The court therefore holds that the caveat was lodged without lawful authority and is liable to be removed under s. 327(1) of the National Land Code. The court will so order, subject to determination of the remaining issues concerning the validity of the SPA and the consent judgment, which bear upon whether any residual right of caveat might conceivably exist.

Validity Of The Sale And Purchase Agreement And Consent Judgment

[44] The respondent's principal attack upon the applicant's title is that the SPA was in truth an illegal money-lending transaction disguised as a sale, and that consequently the consent judgment founded upon that SPA is void *ab initio*. The court therefore must determine (i) whether the SPA was indeed tainted with illegality, and (ii) whether any defect in the SPA would vitiate the consent judgment recorded subsequently by this court.

[45] It is a well-established presumption of law that every contract is valid and enforceable unless illegality is proven. The burden of proof lies squarely upon the party alleging illegality. A serious allegation such as money-lending cannot be made lightly; it must be proved on credible and cogent evidence.

[46] The Moneylenders Act 1951 prohibits persons who are not licensed moneylenders from carrying on the business of money-lending. Section 2 defines a "moneylender" as a person who lends money at interest in the course of business, whereas s. 10 renders any agreement by an unlicensed moneylender unenforceable. The mischief of the Act is directed at systematic lending at interest for gain.

[47] The respondent alleged that although the SPA was framed as a sale of the land for RM4.5 million, in reality it was a loan secured upon the land, with RM1,995,000 returned to the applicant shortly after payment. According to the respondent, this refund demonstrates that the applicant's payment was not a genuine purchase price but an advance of money.

[48] The court has scrutinised the affidavit evidence carefully. There is no contemporaneous documentation evidencing any loan arrangement, repayment schedule, or payment of interest. The only documents before the court are (i) the executed SPA dated 2 May 2019, (ii) the Form 14A duly signed by the vendor, (iii) banking records showing payment of RM1.2 million as a deposit, and (iv) the redemption statement and subsequent bank draft for RM3.648 million tendered to Public Bank Berhad. None of these documents indicate a lending transaction.

[49] To constitute a money-lending transaction there must be "a contract of loan, an intention to create the relationship of borrower and lender, and an obligation to repay". The mere existence of a payment or refund, absent a clear agreement to repay with interest, does not amount to money-lending.

[50] The respondent's assertion that RM1.995 million was "returned" to the applicant is wholly unsupported. No documentary proof of such remittance, acknowledgment, or receipt was produced. Illegality cannot be inferred from conjecture; it must be strictly proved. The court therefore cannot accept bare allegations unaccompanied by primary evidence.

[51] The court also finds it improbable, as a matter of commercial sense, that an unlicensed money-lending scheme would be memorialised in a formal SPA, stamped and lodged with Form 14A, and further endorsed by a consent judgment recorded in an open court. The execution of such instruments by solicitors and the involvement of the Malaysian Department of Insolvency belie any suggestion of clandestine lending.

[52] Furthermore, even if some monies were subsequently returned for reasons unknown, that fact alone would not transform a concluded sale into a money-lending arrangement. The court must look to the substance of the transaction and not to stray payments made after its conclusion. A sale evidenced by an executed instrument of transfer cannot be recharacterised as a loan save upon clear proof of sham.

[53] Applying the above principles, this court is satisfied that the SPA was a genuine agreement for sale and purchase of land. The consideration of RM4.5 million was commercially reasonable in the context of the evidence before the court; the alleged 2007 valuation of RM5.2 million is stale and unsupported by any current valuation report. Market fluctuations over 12 years are well-known, and no expert evidence was tendered to show that RM4.5 million was unconscionably low in 2019.

[54] The court therefore rejects the respondent's contention that the SPA was tainted with illegality or constituted a money-lending arrangement within the meaning of the Moneylenders Act 1951.

[55] The respondent alternatively suggested that the SPA was void for want of consideration or because the company never intended to sell. This argument is equally untenable.

[56] Section 26 of the Contracts Act 1950 provides that "an agreement made without consideration is void", subject to specific exceptions. Consideration may be executory or executed; part-payment of the purchase price suffices. In this case, the applicant paid a deposit of RM1.2 million and subsequently the redemption sum of RM3.648 million to the mortgagee. The total payment of RM4.848 million exceeds the contractual price and constitutes ample consideration.

[57] The SPA was duly executed by both parties, stamped, and partially performed through the issuance of the redemption statement and tender of the redemption sum. The applicant's payment of the land and assessment taxes on behalf of the vendor further evidence performance. These acts of part-performance would in any event bring the contract within the saving of s. 31 of the Specific Relief Act 1950.

[58] The law presumes that parties intend what they sign. The respondent's assertion that the company "never intended to sell" cannot prevail against an executed document witnessed by solicitors and supported by consideration. Once a written agreement is executed, a party cannot later deny its validity merely by asserting a different subjective intention as demonstrated in the case of *Hap Seng Credit Sdn Bhd v. Mohamed A Ralim & Ors* [2015] CLJU 1227; [2015] 1 LNS 1227; [2016] 10 MLJ 761 where it was held as follows:

> [46] I should, for completeness, add that the argument that the respondents had not been in the know of the transactions and that the first respondent having merely signed blank forms and did not understand English, and thus ought not to be responsible for the same is not only unsupported with evidence, but also not justified under the law. It is well-established in the law of contract that a person who is a party to a written contract is bound by the terms of the contract whether or not he understands the language in which it is documented, in the absence of fraud or misrepresentation (see *Subramaniam v. Retnam* [1966] 1 MLJ 172). No allegation of fraud or misrepresentation had been raised, let alone evidenced in the instant case. In the case of *UMW Industries [1985] Sdn Bhd v. Kamaruddin Abdullah & Anor* [1989] 2 CLJ Rep 619, the High Court observed pointedly that:
>
> As for the second defendant's contention that he only signed blank guarantee forms, he has only himself to blame as the plea of *non est factum* does not work in favour of a person who has shown himself to be negligent.

The law cannot thus permit the respondents to be excused from the performance of their expressly stated promise as contained in a valid written agreement on the basis of this contention. The following passage from the case of *Imbangan Utama Sdn Bhd v. Lotan Engineering Works Sdn Bhd* [2002] 8 CLJ 497; [2002] 2 MLJ 313; [2002] 8 CLJ 497 is no less instructive:

> It really takes a litigant of unusual temerity or cheerful insouciance to register a plea of *non est factum*, for such plea rarely if ever succeeds. There is a whole pack of legal cards stacked against such plea. As a defence or a cause of action the onus rests heavily and onerously on the party who alleges *non est factum*. The signer must establish his lack of competence due to illness or innate incapacity or defective education and he was not negligent or had acted nonchalantly or with want of care (see *Saunders v. Anglia Building Society* [1971] AC 1004 (HL). And, he must further establish that he had thought that he was signing a document which was so radically or fundamentally or basically or essentially different in substance or in kind from the document signed (see also *Polygram Records Sdn Bhd v. Hillary Ang & Ors* [1994] 3 CLJ 806 and *Goh Jong Cheng v. MB Melwani Pte Ltd* [1990] 1 LNS 160: [1991] 1 MLJ 482).

[59] Nor can the SPA be impugned on the ground of inadequacy of consideration. Section 26 explanation 2 of the Contracts Act 1950 expressly provides that "an agreement is not void merely because the consideration is inadequate". Inadequacy may be evidence of unconscionability but does not *per se* invalidate a contract absent proof of fraud or duress.

[60] On the totality of evidence, the court is satisfied that the SPA was a lawful, valid, and enforceable agreement supported by valuable consideration.

[61] Even if doubt existed as to the underlying SPA, the subsequent consent judgment entered on 9 June 2022 carries independent legal effect. A consent judgment is a judgment of the court and has the same force as one pronounced after trial as affirmed in the Federal Court decision in *Tan Geok Lan v. La Kuan* [2004] 2 CLJ 301; [2004] 1 MLRA 165; [2004] 3 MLJ 465; [2003] 4 AMR 475. Mohd Noor Ahmad FCJ delivering the judgment of the court held as follows:

> A consent judgment or order is not the less a contract, and subject to the incidents of a contract, because there is superadded the command of the court, and its force and effect derives from the contract between the parties leading to, or evidenced by, or incorporated in, the consent judgment or order. A consent order must be given its full contractual effect, even if it relates to an interlocutory step in the action (see para 390 @ p 286, *Halsbury's Laws of England*, 4th edn vol 37). We gather from this proposition that (i) the agreement on the terms reached between the parties at the interlocutory stage of an action is a contract between the

A parties and (ii) the consent judgment or order arising out of that contract is also a contract between the parties except that the latter is superadded with the command of the court. In short, there are two contracts, one, before the court makes the order and two, after the order is made. After the order is made the first contract merges into the second contract. That being the case, short of the order being made, the first contract will have
B to be separately considered on its binding effect based on incidents of a contract.

[62] The Malaysian courts have consistently held that a consent judgment cannot be set aside except on the same grounds as any other contract, fraud, mistake, or lack of authority as established in the Federal Court case of
C *Badiaddin Mohd Mahidin & Anor v. Arab Malaysian Finance Bhd* [1998] 2 CLJ 75; [1998] 1 MLRA 183; [1998] 1 MLJ 393; [1998] 1 AMR 909 where Peh Swee Chin FCJ, in one of the judgments delivered by the Federal Court stated instructively as follows:

D The grounds referred to for setting aside a consent order of a judgement by consent are grounds which basically relate to *consensus ad idem* or the free consent of parties to a binding agreement or contract. It is elementary that if it is proved that there are grounds which vitiate such free consent, the agreement is not binding. Now a consent order or a judgement by consent is undoubtedly based on an agreement of both parties where
E consent to the agreement must or should have been free in the first place. If the agreement upon which a consent order or judgement by consent is based, is vitiated bv any around recognized in equity as vitiating such free consent, such as fraud, mistake, total failure of consideration, (see *Huddesfield Banking Co v. Henry Lister* [1895] 2 Ch 273 and the cases cited therein), then such a perfected consent order or judgement by
F consent could be set aside in a fresh action filed for the purpose. Grounds which would vitiate such free consent should also include misrepresentation, coercion, and undue influence and other grounds in equity.

[63] In *Tio Chee Hing v. Tractors Malaysia Bhd* [1972] 1 LNS 157; [1973]
G MLJ 66, Gill FJ in delivering the judgment of the court held that:

... So long as the judgment stands, no one who was a party in those proceedings can re-open the matter. See *Hill v. Hill* (19541 P 261; [1954] 1 All ER 491. That is what plaintiff is trying to do in this case. I can see no ground for his doing so since the judgment was the result of his admission. He was fully cognizant of the proceedings and clearly bound
H by estoppel from litigating the same matter in a different form or guise. A judgment by consent or by default, operates as an estoppel between the parties and their privies: *Shaik Sahied bin Abdullah Bajarie v. Mootoo Carpen Chitty* [1910] 2 MC16.

[64] Here, the consent judgment was entered between the applicant and the
I company, and the respondent was a party to the consent judgment. The record shows that the terms of the consent judgment were endorsed by the court and duly recorded.

[65] The respondent has not alleged any fraud in obtaining that consent judgment. The allegation is merely that the underlying SPA was invalid. Once parties entered into consent order approved by the court, that judgment stands as a final adjudication between the parties to it.

[66] Furthermore, the consent judgment expressly authorises the Registrar of the High Court to execute all necessary documents to complete the sale in the event of default by the vendor (cl. 8). This clause reflects the court's supervisory approval and creates an enforceable statutory duty under s. 24 of the Courts of Judicature Act 1964 for the Registrar to perfect the transfer. It would be contrary to the judicial policy to permit a private individual to frustrate such a judgment by entering a caveat.

[67] Even if, *arguendo*, the SPA were later impugned, the consent judgment would subsist until set aside. The respondent has not applied to set aside the consent judgment; his pending application for leave to commence proceedings is still unadjudicated. Accordingly, the consent judgment remains valid, binding, and enforceable.

[68] It bears emphasis that the consent judgment was recorded after the company's winding-up and therefore under the supervision of the liquidator and the court. Section 486(1)(d) of the Companies Act 2016 empowers the liquidator "to sell the immovable and movable property and effects of the company by public auction or private contract". The SPA, having been affirmed through the consent judgment, falls squarely within that statutory power.

[69] In the present case, the liquidator acted in accordance with his statutory duty to realise the company's asset (the land) and settle the secured debt owed to Public Bank Berhad. The applicant's payment of the redemption sum directly facilitated that realisation. The respondent's caveat, far from protecting creditors, in fact impedes the liquidator's ability to distribute proceeds to them.

[70] Therefore, this court holds that the consent judgment of 9 June 2022 is valid and binding upon the company and all persons claiming under it, including its contributors and shareholders. The respondent's attempt to circumvent that judgment by lodging a caveat is legally untenable.

[71] For all the reasons above, this court finds:

(i) the sale and purchase agreement dated 2 May 2019 was a valid and enforceable contract supported by valuable consideration and not tainted by illegality;

(ii) the consent judgment dated 9 June 2022, entered between the applicant and the company through its liquidator, was duly authorised, remains subsisting, and binds all persons claiming through the company; and

A (iii) there are no grounds in law or equity to declare either instrument void. Accordingly, the applicant's interest in the land arising therefrom is lawful and enforceable.

Whether The Applicant Is Entitled To The Removal Of Caveat

B **[72]** The application before this court is grounded upon ss. 327(1) and 417 of the National Land Code ("NLC"). Section 327(1) empowers any person aggrieved by the wrongful or improper entry of a private caveat to apply to the court for an order for its removal. Section 417 confers upon the court the inherent power to make such orders as may be necessary to give effect to the Code or to prevent abuse of process.

C

[73] The statutory test under s. 327(1) is twofold:

(i) whether the applicant has shown that the caveat was wrongfully or improperly entered; and

D (ii) whether the applicant has a valid claim or interest which outweighs that of the caveator.

[74] It is trite law that a purchaser under a valid and subsisting contract for the sale of land acquires an equitable interest in that land. Upon payment of the deposit and part performance, the purchaser becomes the beneficial E owner, while the vendor holds the legal estate in trust for the purchaser until completion (*Borneo Housing Mortgage Finance Bhd v. Time Engineering Bhd* [1996] 2 CLJ 561; [1996] 2 MLJ 12).

[75] The applicant in the present case executed the sale and purchase agreement dated 2 May 2019, paid the deposit and redemption sum totalling F RM4,848,411.65, and subsequently paid the outstanding land and assessment taxes on behalf of the vendor. These acts constitute clear and unequivocal part performance under s. 31 of the Specific Relief Act 1950.

[76] The subsequent consent judgment recorded on 9 June 2022 reinforces and formalises that equitable interest. Clause 8 of the said judgment expressly G empowers the Registrar of the High Court to execute the transfer documents to effect completion. In substance, therefore, the applicant's equitable ownership has crystallised into a registrable right enforceable by an order of the court.

H **[77]** Hence, the applicant's right is not merely equitable but registrable within the meaning of ss. 323 and 327 of the NLC. The continued existence of the respondent's caveat operates to defeat that statutory entitlement, thereby rendering the caveat wrongful and improper.

[78] The respondent's claim rests solely upon his status as a contributor I (shareholder) of the wound-up company, CK Rubber Industries Sdn Bhd. He asserts that he entered the caveat to protect the company's assets and the interests of creditors.

[79] Section 8 of the Companies Act 2016 and long-standing authority establish that a company, upon incorporation, becomes a legal person separate from its members. Upon winding-up, the company's property vests in the liquidator, not the shareholders. A shareholder has no proprietary interest in the company's specific assets, only a residual right to surplus after liquidation.

[80] In *Wu Shu Chen & Anor v. Raja Zainal Abidin Raja Hussin* [1997] 3 CLJ 854, the court held that a person who is neither a registered proprietor nor the beneficiary of a trust nor purchaser under a valid contract has no *locus* to maintain a caveat. The respondent's status as shareholder or "contributor" does not confer any proprietary interest in the land.

[81] The purpose of a caveat is to preserve proprietary or beneficial rights in land. It cannot be used as an instrument of obstruction to frustrate a court-sanctioned transaction. The respondent's attempt to use a caveat to protect a commercial grievance or corporate dispute falls outside the scope of s. 323 of the NLC.

[82] The respondent's caveat is therefore improperly entered. It neither protects a legal or equitable estate nor preserves any proprietary interest recognised by law. Instead, it obstructs the execution of a lawful consent judgment and frustrates the liquidator's statutory duty under s. 486 of the Companies Act 2016.

[83] Moreover, s. 327(1) of the NLC specifically provides that where a caveat has been wrongfully or improperly entered, "the court may make such order for its removal as it thinks just". The applicant, being the equitable purchaser and beneficiary of a valid consent judgment, is clearly an aggrieved person within the meaning of that section.

[84] In the present case, the caveat serves no legitimate purpose. The respondent has no caveatable interest, the liquidator supports completion, and the applicant has already paid the full purchase price and settled outstanding liabilities. To allow the caveat to subsist would subvert both the Companies Act 2016 and the National Land Code, contrary to s. 417 which empowers the court to prevent abuse of process.

[85] The court accordingly finds that the continued existence of the respondent's caveat constitutes an abuse of the caveat mechanism and an interference with the execution of a valid court order.

[86] Equity follows the law. The maxim "He who seeks equity must do equity" applies squarely. The applicant has discharged its obligations under the SPA and consent judgment, whereas the respondent has sought to obstruct completion without advancing any credible legal basis. Equity will not assist a party who comes to court with unclean hands or in defiance of an existing court order.

[87] Further, under equitable doctrine, where two competing equitable interests exist, the earlier in time prevails unless postponed by conduct. The applicant's equitable interest, arising in 2019, predates the respondent's caveat entered only in 2025. There is no evidence of any conduct by the applicant that would justify postponement.

[88] The balance of convenience and justice thus lies decisively in favour of the applicant.

[89] Having considered the affidavit evidence, statutory provisions, and authorities, the court finds and holds as follows:

(i) the applicant has a registrable and enforceable equitable interest in the land pursuant to the sale and purchase agreement dated 2 May 2019 and the consent judgment dated 9 June 2022;

(ii) the respondent, being merely a contributor to the wound-up company, has no caveatable or proprietary interest in the land;

(iii) the respondent's caveat entered on 2 January 2025 is wrongful, improper, and constitutes an abuse of the caveat procedure under the National Land Code; and

(iv) the applicant is an aggrieved party within the meaning of s. 327(1) NLC and is entitled to an order for removal of the said caveat.

Conclusion

[90] Having considered the affidavits filed herein, the documentary exhibits, and the written and oral submissions of learned counsel for the respective parties, this court is of the view that the respondent has failed to establish any registrable interest or caveatable claim over the land capable of supporting the continued entry of the private caveat dated 2 January 2025.

[91] The mere assertion of an alleged equitable interest, unsupported by cogent evidence of contractual obligation binding upon the vendor or purchaser, is insufficient in law to sustain the caveat. The respondent has not demonstrated any proprietary right recognised under the National Land Code ("NLC") that would justify the maintenance of the said caveat.

[92] As such, this court finds that the private caveat in question has been improperly and/or wrongfully lodged within the meaning of the NLC, and no legal or equitable basis exists to permit its continuance. Accordingly, the caveat ought to be removed.

[93] The court further accepts that consequential orders are necessary to give effect to the transfer of the land pursuant to the contractual arrangement between the purchaser and the vendor, subject to statutory approval for the transfer being obtained.

[94] On the question of damages, however, the court is not satisfied that the applicant has sufficiently particularised or proven any specific loss flowing from the lodging of the private caveat. The applicant's prayer for damages is accordingly dismissed.

[95] Having regard to all circumstances of the present matter, this court makes the following orders:

(i) the application in encl. 1 is allowed in part;

(ii) Private Caveat No. Perserahan 00B173/2025 dated 2 January 2025 lodged by the respondent on the land held under Pajakan Negeri No. 314346, Lot No. 62045, Mukim Hulu Kinta, Daerah Kinta, Negeri Perak is hereby ordered to be removed forthwith;

(iii) the Perak State Registrar of Titles is directed to effect the removal of the said caveat with immediate effect;

(iv) the respondent whether by itself, its servants, agents or representatives, is hereby prohibited from entering any further caveat on the land based on the same or substantially similar grounds;

(v) the Perak State Registrar of Titles is further ordered to register the original title deed for the land from CK Rubber Holdings Sdn Bhd to DSG Holdings Sdn Bhd upon the requisite approval for transfer from the relevant authorities being obtained;

(vi) the Deputy Registrar/Senior Assistant Registrar of the High Court of Malaya at Ipoh is authorised to take all necessary steps and obtain all documents required to complete the above transfer of ownership;

(vii) the applicant's claim for damages is dismissed; and

(viii) costs of this application are awarded to the applicant.